

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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METROPOLITAN LIFE INSURANCE
COMPANY,

Plaintiff,

-against-

KAHLII THOMPSON and DARCEL
THOMPSON,

Defendants.
----- x

IN REPLY TO
USDC EASTERN DISTRICT OF NEW YORK

★ FEB 14 2019 ★

BROOKLYN OFFICE

ORDER

17-cv-6238 (ENV) (RER)

VITALIANO, D.J.

Metropolitan Life Insurance Company ("MetLife") brought this action on October 25, 2017. (Compl., ECF No. 1). It sought the recovery of benefits erroneously paid to defendants under the Federal Employees' Group Life Insurance Act, 5 U.S.C. §§ 8701-16 ("FEGIA"). (Compl. ¶¶ 3, 31-36). In addition to its FEGIA claims, MetLife asserted state law claims for unjust enrichment and conversion. (*Id.* ¶¶ 37-49). After defendants failed to appear, MetLife requested a certificate of default, (Req. for Certificate of Default, ECF No. 14), which the Clerk granted on December 21, 2017, (Entry of Default, ECF No. 15). On January 9, 2018, MetLife filed its first motion for default judgment. (Mot. for Default J., ECF No. 16). The Court denied this motion for failure to comply with the Court's local and individual rules but granted leave to renew. (Mem. & Order, ECF No. 17).

On May 4, 2018, MetLife again moved for default judgment. (Mot. for Default J., ECF No. 18). The Court referred the motion to Magistrate Judge Ramon E. Reyes, Jr. for a report and recommendation ("R&R"), which Judge Reyes issued on December 14, 2018, (R&R, ECF No. 22). Judge Reyes recommended that the Court deny the motion for default judgment and dismiss this action, *sua sponte*, for lack of subject matter jurisdiction. (*Id.*). With notice of the time to

object properly given, (*see id.* at 8; Order dated Jan. 15, 2019), no party has filed an objection to the R&R, and the time to do so has passed.

Where no timely written objection has been filed, a district judge need only review an R&R for clear error. *See Dafeng Hengwei Textile Co., Ltd. v. Aceco Indus. & Commercial Corp.*, 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014). In accordance with that standard of review, the Court has carefully examined Judge Reyes's R&R, and finds it to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R, in its entirety, as the opinion of the Court.

Conclusion

For the foregoing reasons, plaintiff's motion for default judgment is denied, and this action is dismissed without prejudice for want of subject matter jurisdiction.

The parties are hereby put on notice that having failed to object to the R&R in a timely fashion, they have waived their right to appeal from this Order. *See Caldor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008).

The Clerk of Court is directed to enter judgment accordingly, to mail a copy of this Order to defendants, and to close this case.

So Ordered.

Dated: Brooklyn, New York
February 3, 2019

/s/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO
United States District Judge